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SUMMARY RECORD OF THE 1050th MEETING

Held at Headquarters, New York,
on Wednesday, 3 April 1991, at 3 p.m.

Chairman: Mr. POCAR

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Third periodic report of the United Kingdom of Great Britain and Northern Ireland (continued) (CCPR/C/58/Add.6, Add.11 and Add.12)

1. At the invitation of the Chairman, Mr. Halliday, Mrs. Evans, Mr. Stock and Mr. Dykes (United Kingdom) took places at the Committee table.

2. The CHAIRMAN said that the United Kingdom delegation would proceed to answer questions held over from sections X, XI, XII, XIII and IV of the list of issues.

3. Mr. SADI said that it appeared that the scope of the blasphemy laws in the United Kingdom extended only to Christianity. He asked whether there was any debate in the country on extending them to cover other religions or abolishing them altogether. As matters stood, the blasphemy laws were clearly in contravention of the letter and spirit of the Covenant.

4. Paragraph 291 of the third periodic report (CCPR/C/58/Add.6) stated that "cohabitation in general carried with it none of the rights or obligations of marriage". How could such an arrangement, however convenient for those concerned, be reconciled with article 23 of the Covenant, which called on States Parties to protect the family structure in society?

5. Mr. WENNERGREN said that he would welcome some explanations in connection with the United Kingdom's approach to article 19 of the Covenant, and in particular its attitude to freedom of information. Article 19 affirmed the freedom to seek information, which implied free access to information from Government sources, albeit with some restrictions. Paragraph 254 of the report, on the other hand, stated that the Government was opposed to a general statutory right of access to information on the internal workings of government. The main thrust of the provision in the Covenant was that secrecy should be invoked only in the public interest and only in exceptional circumstances, and he wondered how that principle could be reconciled with the Government's reluctance to introduce a Freedom of Information Act.

6. In connection with the right of peaceful assembly, with particular regard to Hong Kong, he pointed out that the Covenant also made provision for exceptions only in the case of necessity, and he queried whether the Noise Control Ordinance and the Public Order Ordinance, referred to in paragraph 70 of the update on Hong Kong (CCPR/C/58/Add.11), could legitimately be invoked to restrict the right of peaceful assembly affirmed in article 21 of the Covenant.

7. Mr. EL-SHAFEI, noting that there had been a considerable effort to review, and in some cases amend or repeal, some of the laws applicable in Hong Kong which fell within the scope of article 17 of the Covenant, said that he welcomed the fact that

the Law Reform Commission was currently examining the law relating to information privacy. None the less, the existing legislation gave grounds for misgiving, and he asked what legal justification could be provided for the continuing incidence of phone-tapping and requests for telephone information by public bodies, and whether such practices were monitored by bodies independent of the executive.

8. Concerning article 19, he said that the Summary Offences Ordinance and the Education Ordinance seemed to confer excessively wide powers on the authorities in restricting the expression of public opinion. While noting that some progress had been made, he wondered whether the Government intended to make further amendments in the interests of greater freedom of expression.

9. Mr. WAKO said that article 13 of the Covenant was clearly intended to prevent arbitrary expulsions, but that its application in the United Kingdom, and more specifically to the Vietnamese refugees in Hong Kong, raised a number of important issues. Furthermore, the screening and detention procedures for such asylum-seekers seemed to lack the safeguards provided under article 14, paragraphs 3 (b), (d) and (f) in that they imposed restrictions on access to legal advice and representation during the early stages of the process and made no provision for interpretation services. Indeed, it seemed that in some cases in Hong Kong legal assistance had actually been denied. In that connection, he wondered whether the findings of the Court in the Do Giau case, referred to in paragraph 57 of document CCPR/C/58/Add.11, would be applied, and asked what steps were being taken to ensure that screening procedures conformed to the letter and spirit of the Covenant.

10. With regard to article 17, it would be interesting to have information on the regulations applicable in Hong Kong with respect to the right to privacy. It would also be interesting to know what steps were being taken in both the United Kingdom and Hong Kong to implement the right to receive and impart information (article 19), especially with regard to the right to obtain information from government institutions.

11. In connection with article 25, he asked whether the progressive measures on such issues as flexible working hours, job sharing, longer maternity leave and provision for day care of children which were being adopted in the United Kingdom would also be introduced in Hong Kong. He also wished to know whether allegations of discrimination against women in some sectors of public employment, such as the police, were well founded, and if so, what steps were being taken to eliminate such discrimination and to ensure equality of opportunity in both the public and private sectors.

12. Mr. MAVROMMATIS asked for clarification of the term "departures under supervision" in paragraph 188 of the third periodic report (CCPR/C/58/Add.6). Was it merely a euphemism for deportation without a deportation order?

(Mr. Mavrommatis)

13. Concerning the blasphemy laws, he said that he could understand the United Kingdom Government's dilemma, which was whether to extend or to abolish the existing legislation, but that in his view the latter might represent the most acceptable approach.

14. He had gained the impression from the explanations provided by the United Kingdom representative regarding the vetting of civil servants that the authorities enjoyed sweeping powers which could be open to abuse and which were in any case somewhat outmoded in the light of the end of the cold war. He therefore believed that the criteria for vetting should be reviewed.

15. Mr. LALLAH, referring to article 17, questioned the United Kingdom representatives regarding the Anton Pillar orders, which seemed to compromise the right to privacy in civil proceedings.

16. Still within the context of article 17, he had noted from the replies of the United Kingdom representative that the Security Services Act applied only to one branch of the security services, namely MI 5, and not to MI 6 or to Government Communications Headquarters (GCHQ). He would welcome further clarification of the mandate of the security forces. He wondered in particular whether statements made by Members of Parliament might not render them liable to surveillance by the security services. It seemed to him that the powers exercised by those services extended to surveillance of persons engaged in perfectly legitimate political activities.

17. Noting that campaign expenditures were restricted under British election law, he asked whether similar restrictions applied to expenses incurred by parties. He noted that candidates for civil service posts not filled by appointment had recourse to tribunals. He wondered if they also had recourse to the highly developed British system of judicial review, as a safeguard against violations occurring secretly.

18. Mr. ANDO, referring to document CCPR/C/58/Add.12, paragraph 45, requested clarification of the "key people" category permitted to register as British citizens under the British Nationality (Hong Kong) Act.

19. Referring to a case which had come before the European Court of Human Rights, he inquired about restrictions on the publication of material about trials in progress, which could be construed as a form of censorship. The breach of confidence procedure, which authorized injunctions or even bans on pubishing news about civil lawsuits was cause for concern. In conclusion, referring to document CCPR/C/58/Add.11, paragraph 73, he asked whether any textbook or syllabus had been amended or forbidden in Hong Kong and, if so, on what criteria the decision had been based, and noted that such an action would be fraught with political implications.

20. Mr. AGUILAR, referring to section XII (g) of the list of issues and paragraph 276 of the report, said that there seemed to be an element of

(Mr. Aguilar)

subjectivity in the Secretary of State's powers to proscribe organizations under the Prevention of Terrorism (Temporary Provisions) Act 1989. Clarification would be appreciated. Referring to comments by Mr. Halliday, he asked why certain legally constituted organizations were denied access to the media, especially radio and television. The ban on the use of loudspeakers in Hong Kong seemed to be a violation of article 19 of the Covenant and was particularly disturbing in view of a letter of 23 October 1990, which he read out to the Committee. In that letter, the Hong Kong Government assured the Government of the People's Republic of China that Hong Kong would not serve as a base for subversive groups, and reported that members of the April 5 Action Group had been arrested. Lastly, he would appreciate comparative statistics on the number of airline passengers entering and leaving Hong Kong.

21. Mr. MYULLERSON agreed with Mr. Ando regarding injunctions on the publication of court proceedings. He asked whether the United Kingdom had specified remedies in order to comply with the recent decision of the European Court of Human Rights in favour of a British newspaper on that issue.

22. Referring to article 25 of the Covenant, he sought clarification of the seeming contradiction in prohibiting members of political parties from holding civil service posts, while allowing members of the civil service to enter politics (para. 347), particularly local politics (para. 357). He wondered how the political activities of civil servants were restricted.

23. Referring to part II, section F of the report, which dealt with Hong Kong, he inquired whether the restrictions spelled out in paragraph 63 also applied to private gatherings such as weddings and funerals. Furthermore, the British delegation should provide information on the nature of the controls applied when gatherings exceeded 200 persons and on the number of meetings or processions which had been disallowed under paragraphs 64 (d) and (e).

24. Mr. PRADO VALLEJO referred to the powers of the Secretary of State under the Cable and Broadcasting Act 1984 (para. 262) and noted that the independence of the radio and television could be restricted in the interest of maintaining political impartiality. However, stifling debate on controversial issues had triggered a series of reactions in the United Kingdom. He was concerned that such a policy restricted freedom of expression and would appreciate information in that regard.

25. Mr. HALLIDAY (United Kingdom) expressed appreciation for the Committee's understanding that the law on blasphemy gave rise to certain problems. The question remained as to whether the law on blasphemy should be completely reformed. The fact that it did not apply to all religions did not contravene article 18 of the Covenant. Replying to a question by Mr. Sadi concerning cohabitation, he said that, in the United Kingdom, every effort was being made to take into account a wide range of views as to what constituted a family.

26. In reply to Mr. Wennegren, he said that information was available to British citizens through a variety of channels. Representatives of the government ministries appeared before both Houses of Parliament and representatives of

(Mr. Halliday, United Kingdom)

Ministries and government offices appeared before a range of select committees of the House of Commons. A number of government publications provided information as well. He did not believe that the obligations under the Covenant in that regard were as comprehensive as some Committee members had suggested. Moreover, a distinction should be drawn between policy matters for discussion by Ministries and officials, on the one hand, and administrative or executive decisions affecting the lives of individuals, on the other, which could be reviewed on appeal or before the tribunals.

27. In response to Mr. Mavrommatis' question on polygamy (para. 176 of the report), he said that a woman's status as lawful wife was generally based on the fact that she had accompanied her husband to the United Kingdom and was residing there with him as his wife.

28. Under the system of supervised departure, a person who was in the country unlawfully could, at the authorities' discretion, leave voluntarily as an alternative to being deported. Re-entry was barred as long as a deportation order was in effect; however, anyone who left under the "supervised departure" system enjoyed the same status as any person applying to enter the country. Deportation orders were subject to review and could be revoked, if necessary.

29. He agreed with Mr. Mavrommatis that the report might have included the Prime Minister's statement on civil service entry requirements, but noted that it did provide some updated information. He could assure the Committee that the Government had thoroughly reviewed policies and procedures in that regard. Campaigning on industrial and political platforms was not viewed as threatening as long as there was no attempt to undermine Parliament or the Constitution. Ordinary campaigning could take place freely, with all the guarantees afforded by the country's fine tradition of parliamentary democracy and open debate.

30. Replying to Mr. Lallah, he said that the Anton Pillar orders had been taken up in the Chapel case before the European Court of Human Rights and that the rules to which it had made reference were contained in Supreme Court Act 1981. He took note of Mr. Lallah's comments on the right to privacy and confirmed his interpretation of the Security Service Act. That Act represented the first statutory text covering the secret service; it contained new safeguards and specified remedies which were as effective as possible under all circumstances. Complaints by organizations which were the target of investigation could be reviewed by a commissioner appointed under the Prevention of Terrorism (Temporary Provisions) Act 1989. He did not have sufficient data to be able to reply to Mr. Lallah's question on election expenditures.

31. Responding to Mr. Lallah's question about civil service screening, he said that employers should decide whether equal access also implied a uniformity of qualification standards. He did not believe so. In reply to Mr. Ando's question, he said that the persons who could apply to be registered as British citizens under the British Nationality (Hong Kong) Act would be determined by the Hong Kong

(Mr. Halliday, United Kingdom)

Government in accordance with a scheme approved by the British Parliament. The scheme included four classes of persons representing the general occupational services, the discipline services, other services and entrepreneurs. Places would be allocated in two phases, the first of which would be completed by 1993. Cases recommended by the Governor would be considered on behalf of the Secretary of State by a small team of officials based in Hong Kong.

32. Replying to Mr. Aguilar, he said that decisions to proscribe organizations were subject to full parliamentary controls and that the remedy of judicial review was available. He had observed little disagreement in Parliament about which organizations should be proscribed. The Cable and Broadcasting Act applied to direct broadcasting by the organizations concerned, not to publication or indirect communication. It was therefore a limited order designed to guard against fomenting terrorism through publicity. In response to Mr. Prado Vallejo, he said that the Cable and Broadcasting Act was not intended to inhibit freedom of expression, but merely to establish independent radio and television commissions.

33. In reply to Mr. Myullerson, he said that the political activity of civil servants depended, in certain cases, on their seniority, but that they were, indeed, free to enter local government and national politics.

34. Mrs. EVANS (United Kingdom), replying to questions by Mr. Ando and Mr. Myullerson, said that restrictions on press coverage of court proceedings were carefully designed to strike a balance between freedom of expression and the proper administration of justice. In the case of non-jury trials, a strong consideration was that justice must be done, and that it must be clear that those adjudicating the case had not been influenced by any publication or broadcasts. It should be noted, however, that the right of appeal did exist under the Criminal Justice Act 1988.

35. Case law laid down what the position of the courts should be regarding interim injunctions in respect of breach of confidence. At issue was whether damages would be sufficient compensation if publication of proceedings destroyed the basis of a plaintiff's case. The case referred to by Mr. Myullerson, The Guardian v. The United Kingdom, was before the European Court of Human Rights. A hearing was expected to be held in June.

36. Mr. STOCK said, with regard to Hong Kong, that telephone intercepts could be authorized under the Telecommunications Ordinance in the public interest on the specific approval of the Governor if there was a risk to security. There were no specific laws dealing with subscriber information. The Bill of Rights Bill, once enacted, would impact on all earlier ordinances in connection with which Committee members had expressed concern.

37. With respect to freedom of information, anti-corruption legislation had been enacted in response to serious problems of corruption some years earlier. Reporting restrictions had been enforced during corruption cases so as not to forewarn those under investigation, although it would be possible for such restrictions to be lifted once an arrest had been made.

(Mr. Stock)

38. The question of Vietnamese boat people had posed mammoth problems for Hong Kong, and the territory had made a genuine effort to deal fairly with them. It should, however, be noted that articles 13 and 14 of the Covenant related to those lawfully present in the territory of a State party, which was not true of the boat people in Hong Kong. An effort had been made to make screening and detention procedures as fair as possible. The criteria applied had been reviewed with UNHCR, and were subject to UNHCR scrutiny at all stages of the process. The Hong Kong authorities encouraged UNHCR to provide legal advice to asylum seekers. In fact, several asylum seekers had had recourse to the courts, and had been successful in pursuing their claims. Legal aid had been provided in those cases.

39. With regard to the reference in paragraph 73 of document CCPR/C/58/Add.11 to the power of the Director of Education to amend a school syllabus on educational grounds, he said that it would be for the courts to give an interpretation should those powers be exceeded. The provision had only recently been enacted and no such instance had so far arisen.

40. With regard to the suggestion that legal action might be initiated for political reasons, the Committee should note that the authorities did not themselves determine when prosecutions should be brought. That was a power vested in the Attorney General, who acted independently. In fact, the Attorney General had recently publicly rejected allegations of political prosecutions. The independence of prosecutors was provided for in both the Joint Declaration of the Governments of the United Kingdom and China and the Basic Law of the Hong Kong Administrative Region, continuing a situation which had long prevailed in the territory.

41. Commenting on the thought that Hong Kong might be turning away from freedom and towards oppression, he said that the facts of the situation were otherwise. For example, the laws governing homosexual behaviour had recently been amended, and corporal punishment had been abolished. There was an ongoing review of legislation, and there was no doubt that the rule of law was alive and well in Hong Kong. It was the intention of the Hong Kong authorities to review electoral legislation, and the Hong Kong Bill of Rights Bill included provisions protecting the rights covered under the Covenant. If anything, Hong Kong was moving further along the road to freedom.

42. Mr. DYKES (United Kingdom), responding to questions, said that whether limitations were placed on the right of assembly on the ground of public nuisance would depend on the facts of the case. However, such cases were justiciable under the Bill of Rights. With regard to prohibitions of public meetings, meetings involving more than the numbers of people specified in the Public Order Ordinance required the authority of the Commissioner of Police, such permission having been withheld on six occasions in 1989 and 1990, either because of improper notification or because the venue was deemed unsuitable.

(Mr. Dykes, United Kingdom)

43. With regard to equality of the sexes, there was no specific programme for the advancement of women in the civil service, although in reality equality prevailed. With respect to the police force, women accounted for approximately 10 per cent of the total force, and approximately 13 per cent of the inspectorate. A higher percentage of men was recruited deliberately because of the reality that police were exposed to situations in which the use of firearms was a necessity. Lastly, job advertisements did not discriminate on the basis of sex, other than where it was proper to do so given the requirements of the job.

44. The CHAIRMAN invited the members of the Committee to make their concluding remarks.

45. Mr. EL-SHAFEI said that the United Kingdom delegation had engaged in a useful and enlightened dialogue with the Committee. Most of the Committee's time had been devoted to the arrangements in place in Hong Kong prior to its reversion to the People's Republic of China. The constitutional and legal framework which would govern the future of Hong Kong involved all aspects of the rights covered under the Covenant. It was the Committee's duty to ensure that the specifics of the legislation that would apply in the territory in the future were consistent with the provisions of the Covenant.

46. Mr. LALLAH said that the responses of the delegation to questions raised in connection with a number of areas, for example, detention in Northern Ireland, had left him puzzled. One issue of particular concern was that of legal aid, which seemed to be excessively restricted in a society where legal advice was extremely expensive. The Committee's primary concern was, of course, the extent to which the provisions of the Covenant were applied under the United Kingdom's domestic legislation. In that connection, it seemed that there should be greater latitude for judicial review of substantive rights.

47. Ms. CHANET said, with regard to Northern Ireland, that a permanent state of emergency was in effect. She hoped that the current negotiations would lead to a positive outcome. Derogations under article 4 of the Covenant should be limited to the extent strictly required by the exigencies of the situation. With regard to criminal procedure, some of the procedures followed in the United Kingdom should have been the subject of a declaration of reservation in view of various shortcomings, particularly with regard to cases involving terrorist acts in Northern Ireland. She welcomed review of matters relating to evidence and jurisdiction by the Royal Commission and trusted that its recommendations would result in procedures more in accord with the Covenant. She hoped that appeals procedures would be brought more into line with article 14 (5) of the Covenant. Equally, she trusted that improvements would continue to be made to conditions of imprisonment, in accordance with article 10.

48. On the question of Hong Kong, she agreed that it was important to ensure full implementation of the Covenant to Hong Kong before its transfer to the People's Republic of China. It would have been easier for the United Kingdom to have included more specific provisions concerning the application of the Covenant in the

(Ms. Chanet)

Joint Declaration had it held a plebiscite, and she trusted that the United Kingdom Government might yet find it possible to conclude an agreement with the People's Republic of China to strengthen protection of the rights provided for under the Covenant.

49. Mr. SADI said that the third periodic report of the United Kingdom was remarkable both for its scope and for its recognition that many aspects of the country's laws concerning human rights were in need of improvement. He reiterated that the existing legislation on war crimes was not extensive enough and should be modified; the same was true of the blasphemy and immigration laws. In addition, the reservations which the United Kingdom maintained with respect to the Covenant remained a cause of concern. The status of the Covenant in Hong Kong still was not sufficiently assured; perhaps the United Kingdom could use the Committee's observations as leverage to negotiate a more satisfactory formula concerning the Covenant. Given the uncertainties created by the forthcoming transfer of sovereignty, a supplementary report on Hong Kong was in order. In Northern Ireland, there was an evident need for more equitable administration of justice. The emergency legislation relating to terrorism clearly required refinements to make it more consistent with the letter and spirit of the Covenant.

50. Mr. WENNERGREN said that it might not be possible for the United Kingdom's common law system to cope with the rapid and sophisticated developments in the field of human rights, and urged the United Kingdom to enact a bill of rights which would guarantee all of the rights set forth in the Covenant and in other human rights instruments. With respect to article 7 of the Covenant, concerning inter alia medical experimentation, he raised the question of whether the laws governing the United Kingdom's penal system provided adequate protection against involuntary subjection to such experimentation, including studies of the placebo effect. Restrictions on freedom of information were another cause of concern, and the prerequisites for withholding information from the press and the public should be more strictly defined.

51. In Hong Kong, the United Kingdom should take a more constructive approach to the development of self-determination and democracy, in compliance with articles 1 and 25 of the Covenant. In particular, it was essential to abolish the death penalty as soon as possible. Public opinion could be induced to favour abolition if the population was informed that since 1966, all death sentences in Hong Kong had been, in effect, identical to sentences of life imprisonment. The system of human rights legislation would become very complex after the transfer of sovereignty in 1997, since it would involve three sets of provisions: articles 25 through 37 of the Basic Law, article 39 of the Basic Law (which provided for the applicability of the Covenant) and the Hong Kong Bill of Rights; immediate measures to coordinate and harmonize the contents of those provisions were therefore essential. He wondered whether the consent of the States parties to the Covenant was required for article 39 of the Basic Law, which inter alia referred to the obligation of reporting to the Committee on compliance with the Covenant. He stressed that a report on Hong Kong should be submitted at least one year prior to the date the next periodic report from the United Kingdom was due, in order to give the Committee ample time to consider it before Hong Kong reverted to China in 1997.

52. Mr. MYULLERSON welcomed the progress which the United Kingdom had made in the area of safeguarding human rights since the time of its second periodic report. However, he remained concerned about reports that killings by members of the security forces in Northern Ireland were not always thoroughly investigated. In addition, since the United Kingdom would be unable to guarantee full implementation of the Covenant in Hong Kong after 1997, he hoped that the delegation of the United Kingdom would convey to its Government and to the Hong Kong Administration the concerns and observations of the Committee, and that provisions which addressed those concerns would be incorporated into Hong Kong's legislation before 1997. Another problematic issue was the exercise of censorship through court injunctions preventing the publication or broadcasting of information to which the public rightfully should have access. Finally, he hoped that the Government of the United Kingdom would review its reservations with respect to the Covenant and would withdraw at least some of them.

53. Mr. PRADO VALLEJO said he was concerned about six main issues which had been raised in the consideration of the United Kingdom's third periodic report: (1) the excessive powers enjoyed by police in Northern Ireland under anti-terrorism laws, which affected the standards proclaimed in the Covenant; (2) abuses and discrimination in the application of the Immigration Act 1971; (3) insufficient participation by the people of Hong Kong in the process of planning their future, given the principle that the population should actively exercise its right to self-determination; (4) the United Kingdom's many reservations with respect to the Covenant, which tended to distort the application of the Covenant's provisions; (5) the necessity for the United Kingdom to ratify the Optional Protocol to the Covenant to enable its citizens to present allegations of human rights violations before the Committee; and (6) the excessive powers to limit freedom of expression established under the various Broadcasting Acts. He trusted that the Government of the United Kingdom would give due consideration to those concerns and would continue to comply in good faith with its obligations under the Covenant.

54. Mr. AGUILAR noted that the United Kingdom's report covered a number of different territories and legal systems. Unlike Mr. Wennergren, he believed that the common law system was capable of guaranteeing the rights contained in the Covenant and that its adaptability enhanced its capacity to respond to the varied requirements of the different territories. There was, however, room for improvement in the United Kingdom's application of the Covenant. He hoped that the United Kingdom would withdraw its reservations with respect to the Covenant and that it eventually would ratify the Optional Protocol. Although it appeared that most human rights were effectively guaranteed in Hong Kong under the existing legal system, the future of those guarantees remained uncertain. For example, the Basic Law provided for derogations of the rights of the population, and did not provide for the application of sanctions in the event of non-compliance with the Joint Declaration.

55. With respect to Northern Ireland, he was concerned about the liberal rules regarding the use of firearms by police, and about the prolonged application of many of the emergency measures. Police in Northern Ireland also appeared to enjoy excessive powers with respect to detention and to procedures for obtaining

(Mr. Aguilar)

confessions. The United Kingdom had a special obligation to address the Committee's concerns in that its long-standing democratic traditions made it an internationally recognized paradigm of commitment to respect for human rights.

56. Mr. DIMITRIJEVIC said that the complexity of the geographically and legally fragmented picture presented in the United Kingdom's report was compounded by the fact that some of the rights set forth in the Covenant were addressed by a number of different laws and rules. He was concerned that the Covenant's ambiguous position in the United Kingdom's legal system would hinder its effective application, as in the case of recent decisions authorizing restrictions on freedom of expression under the Broadcasting Act. Since public opinion was the most valuable source of support for human rights, public awareness of the existence of the Covenant should be increased in the United Kingdom and the country's periodic reports to the Committee should be published and made widely available. Although it had been argued that the United Kingdom did not need to ratify the Optional Protocol because the Optional Protocol's provisions overlapped with those of the European system, the European system did not provide for monitoring procedures, and so the United Kingdom should give renewed consideration to ratification of the Optional Protocol.

57. He remained concerned that the right of appeal under article 14 (5) of the Covenant was not sufficiently guaranteed under the United Kingdom's criminal justice system and that the principle of the presumption of innocence was not protected under the emergency provisions. With respect to Hong Kong, he wondered whether article 22 of the Covenant, which he understood to include the international aspects of freedom of association, would be thus interpreted in light of the provisions of the Basic Law. It was essential that the legal system in Hong Kong be in a position to guarantee full respect for human rights by 1977. Accordingly, the United Kingdom's next periodic report, or at least the section on Hong Kong, must be submitted to the Committee in due time.

58. Mr. HERNDL said that the United Kingdom had the responsibility to do everything in its power to tighten Hong Kong's legal system and to make it completely consistent with the Covenant so that it could not easily be altered after the transfer of sovereignty in 1997. He hoped that practical ways would be found to ensure that China would fulfil its obligations to report to the Committee under article 39 of the Basic Law. He hoped that the United Kingdom would submit its next report on Hong Kong in due time so that the Committee could give it full and careful consideration.

59. Mr. WAKO said that there had been positive developments in the United Kingdom in such areas as criminal justice, prison conditions and family law reform. However, the situation in Northern Ireland and issues involving asylum seekers and non-discrimination were still causes of concern. Although experience had shown that the common law system functioned effectively, its complexity often made the remedies available in specific cases difficult to determine; he therefore urged the United Kingdom to consider ratifying the Optional Protocol as a matter of priority.

(Mr. Wako)

60. The Joint Declaration and the Basic Law represented important steps towards addressing human rights issues in Hong Kong. However, the Hong Kong Bill of Rights was not yet law, the Letters Patent had not yet been amended and the Law Reform Commission was still considering laws regarding privacy, illegitimacy, police powers and other matters. Not only should the rights proclaimed in the Covenant have their due place in Hong Kong's legal system, but the reporting mechanisms provided for in the Covenant must also continue to be implemented after 1997. It would be useful for the Committee to receive biennial reports on Hong Kong.

61. The CHAIRMAN noted that the Committee's observations on the situation in the United Kingdom and its dependent territories had focused on Northern Ireland and Hong Kong. He welcomed the United Kingdom's recent decision to conduct negotiations with Northern Ireland in order to reach a solution that would provide full protection for human rights. With respect to Hong Kong, the United Kingdom had a responsibility to hand over the territory to China under conditions that would prevent any erosion of the current standard of protection for human rights. The Government of the United Kingdom appeared to agree with the Committee's interpretation of the situation: that China had entered into international legal obligations in respect of Hong Kong and that the Joint Declaration and the Basic Law encompassed the implementation of all the provisions of the Covenant, including those which were of a procedural nature. The Government of the United Kingdom should ensure that that interpretation was accepted by the Government of China. He was confident that the delegation would convey the Committee's concerns to its Government and that the Government would take those concerns into account in carrying out its responsibilities in both the United Kingdom and its dependent territories. The fourth periodic report of the United Kingdom would be due on 18 August 1994.

62. Mr. BEAMISH (United Kingdom) assured the Committee that he would report its views to both the Government of the United Kingdom and the Hong Kong Administration. However, the Committee should bear in mind that the Basic Law of the Hong Kong Special Administrative Region had been drawn up by the People's Republic of China, and that the delegation therefore had not been in a position to give authoritative interpretations of individual provisions of the Basic Law. He welcomed the Committee's intention to continue monitoring the situation in Hong Kong in the future.

63. Mr. HALLIDAY (United Kingdom) said that his Government placed great importance on hearings before the Committee to monitor compliance with the Covenant and that it would be duly notified of the Committee's concerns regarding the third periodic report.

The meeting rose at 6.15 p.m.